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April 7, 1988

MAY 20 1988

Mr. Maurice L. Daneault
Assistant Executive Secretary
N.H. Retirement System
169 Manchester Street, Building 3
Concord, New Hampshire 03301

Dear Mr. Daneault:

By letter dated March 24, 1988, you have requested our opinion as to the amount of the employer's normal contribution when a group I state employee whose compensation is reduced elects to continue contributing to the system at his former, higher rate.

RSA 100-A:16, II(c) provides in part that the "contributions of each employer for benefits under the retirement system on account of group I members shall consist of a percentage of the earnable compensation of its members to be known as the 'normal contribution'; and an additional amount to be known as the 'accrued liability contribution'; ... " See also RSA 100-A:16, II(d) (percentage normal contribution rate determined as rate percent of earnable compensation of all members). Thus, the basis upon which an employer's normal contribution is calculated is the member's "earnable compensation."

"Earnable compensation" is defined in RSA 100-A:1, XVII in part as follows:

"Earnable compensation" shall mean for all members the full base rate of compensation paid plus any overtime, holiday and



longevity or severance pay. ...
Notwithstanding the foregoing, in the case of employees or teachers, the full base rate of compensation of a member whose compensation is reduced for any reason shall, at the election of the employee or teacher made at the time of such reduction, be deemed for the purposes of the retirement system to be continued at the higher rate. Such election shall be irrevocable.

In the instant case, a state employee (group I member) whose compensation has been reduced has elected to have his full base rate of compensation continued at his former, higher rate for purposes of the retirement system. Thus, in accordance with the plain meaning of the statute, for purposes of calculating the employer's normal contribution under RSA 100-A:16, II(c), this employee's "earnable contribution" is deemed to mean his former, higher full base rate of compensation, plus any overtime, holiday and longevity or severance pay.

Although there is no need to look beyond the statute itself when the language is plain and unambiguous, Dover Professional Fire Officers Ass'n. v. City of Dover, 124 N.H. 165, 169 (1983), it is our understanding that our interpretation accords with the retirement system's past practice and interpretation.

If you have additional questions regarding this matter, please contact me.

Very truly yours,



David S. Peck
Assistant Attorney General

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